UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JENNIFER D. MASTERS,

Plaintiff, Case No.:
-vs- Honorable:

CLASS APPRAISAL, INC.,
a domestic profit corporation,

Defendant.
/

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COMPLAINT AND DEMAND FOR JURY TRIAL

Jennifer D. Masters ("PLAINTIFF"), through her attorneys at Burgess, Sharp, & Golden, PLLC, states the following for her Complaint against Class Appraisal, Inc. ("DEFENDANT"):

1. Plaintiff is a resident of the County of Macomb, State of Michigan.

2. Defendant is a domestic profit corporation that does business throughout the State of Michigan.
3. The events giving rise to this cause of action occurred in the City of New Baltimore, Macomb County, Michigan and the City of Troy, Oakland County, Michigan.
4. At all relevant times, Plaintiff was employed by Defendant.
5. This Court has jurisdiction under the Americans with Disabilities Act as Amended ("ADAAA"), 42 USC 12101, et seq, and pendant jurisdiction over state law claims under 28 USC 1367(a).

Factual Allegations

6. Plaintiff began employment with Defendant on February 1, 2012, as a Quality Control Appraiser.
7. As a Quality Control Appraiser, Plaintiff worked from a desk all day, using a computer to review work done by Defendant's other appraisers.
8. Throughout her employ, Plaintiff was a valued employee of Defendant's.
9. Plaintiff was diagnosed with multiple sclerosis on May 4, 2011.
10. The multiple sclerosis affects her motor function. She has difficulty walking and uses a wheelchair to get around. She has problems with balance and intermittent weakness. She also has frequent "pins and needles" sensations,

numbness, spasticity, and bowel and bladder problems. Her condition also causes her fatigue and pain.

11. In October of 2012, Plaintiff's condition had worsened such that her neurologist recommended that she work from home, as it became unreasonable for her to work from an office setting.

12. Plaintiff provided her neurologist's written recommendation to her supervisor, Arkady Gralnik ("GRALNIK"), as a request to work from home as a reasonable accommodation.

13. Gralnik received permission from Defendant's CEO, Mark Backonen ("BACKONEN"), to grant Plaintiff's accommodation.

14. Once her request was granted, Plaintiff began working from home for a minimum of thirty-five hours per week with great success.

15. All of the duties she performed in an office setting could be performed remotely at no hardship to Defendant.

16. On January 22, 2013, Gralnik contacted Plaintiff on the telephone to revoke her accommodation, stating that she would have to resume working from the office, or that she would be terminated.

17. Gralnik would not answer any of Plaintiff's questions, and instead directed her to Bill Stoops ("STOOPS"), a then-newly-named operations manager for Defendant.

18. Plaintiff contacted Stoops, who advised her that Defendant was no longer going to have a "work-at-home program."

19. Plaintiff explained to Stoops that she was never a part of any such program, and that she was working from home was an accommodation for her disability. Stoops then requested updated medical information from Plaintiff.

20. Plaintiff was able to secure an emergency appointment with her physician to provide Stoops with updated medical information, despite the fact that the original medical documentation that was in her file was less than six months old.

21. On January 23, 2013, Stoops advised Plaintiff that she had to either return to the office to work or that he was going to "voluntarily resign [her]." Stoops gave Plaintiff a deadline of January 24, 2013 to make this decision.

22. The same day, Stoops disconnected Plaintiff's remote access so that she was unable to do her job from home.

23. Plaintiff e-mailed Stoops and asked for a formal meeting to discuss her accommodations, and requested that she be permitted to work from home until the matter was resolved.

24. Stoops did not respond to Plaintiff's e-mail.

25. Plaintiff contacted the Equal Employment Opportunity Commission ("EEOC") for guidance on the matter.

26. The EEOC provided Plaintiff with some weblinks regarding reasonable accommodations. Plaintiff forwarded these weblinks to Stoops in an effort to explain that working from home was a reasonable accommodation for her.

27. Stoops responded to Plaintiff via e-mail at 8:53 p.m. on January 24, 2013, advising that Defendant was not required to allow her to work from home, and that her deadline to make a decision was still 5:00 p.m. that day (although he had contacted her after 5:00 p.m.). He further stated that his message would be "the last communication regarding [the] matter."

28. Backonen was copied on the e-mail from Stoops.

29. Plaintiff began to reach out to Backonen directly for help.

30. Backonen denied having knowledge that Plaintiff had a disability, and advised Plaintiff that she needed to "make a decision to either come back to [the] office or do something else."

31. Backonen's e-mail to Plaintiff was the last communication she received from either Backonen or Stoops, which effectively terminated her employment.

32. On January 30, 2013, Plaintiff contacted the EEOC to file a charge against Defendant.

33. The EEOC found cause to believe that Defendant's actions violated the ADAAA, and attempting to conciliate the matter.

34. Conciliation failed, and the EEOC issued Plaintiff a right-to-sue letter on January 26, 2017.

Count I – Discrimination under the ADAAA

35. Plaintiff incorporates the preceding paragraphs by reference.

36. Plaintiff is a person within the meaning of the ADAAA.

37. Defendant was Plaintiff's employer as defined by the ADAAA.

38. At all relevant times, Plaintiff was an individual with a disability within the meaning of the ADAAA.

39. Specifically, Plaintiff has a physical or mental impairment that substantially limits one or more of her major bodily functions, has a record of the impairment, and is regarded by Defendant as having the impairment.

40. Plaintiff is a qualified individual with a disability as that term is defined in the ADAAA.

41. Plaintiff was treated differently than others employed by Defendant who did not have a disability.

42. Plaintiff is an individual who, with a reasonable accommodation, can perform the essential functions of her job as a Quality Control Appraiser.

43. Defendant refused to accommodate Plaintiff's disability.

44. Defendant failed to undertake any good faith efforts, in consultation with Plaintiff, to identify and make reasonable accommodations for her.

45. Defendant then terminated Plaintiff because of her disability.

46. Defendant conducted itself with malice or reckless indifference to the federally protected rights of Plaintiff.

47. As a direct and proximate result of Defendant's discrimination against Plaintiff on the basis of disability, Plaintiff has suffered lost wages, benefits, and loss of employment opportunities.

Count II – Retaliation Under the ADAAA

48. Plaintiff incorporates the preceding paragraphs by reference.

49. After Plaintiff advised Stoops of her rights under the ADAAA and made reference to the EEOC, Stoops and Backonen terminated her.

50. Defendant's proffered reasons for Plaintiff's termination were mere pretext to hide the discriminatory and retaliatory motive for her termination.

51. Defendant's conduct constitutes a violation of the ADAAA.

52. Defendant's retaliation against Plaintiff has caused or continues to cause Plaintiff to suffer substantial damages for pecuniary losses, mental anguish, loss of enjoyment of life, and other non-pecuniary losses.

Count III – Discrimination in Violation of the Michigan Persons with Disabilities Civil Rights Act ("PWDCRA")

53. Plaintiff incorporates the preceding paragraphs by reference.

54. Plaintiff's multiple sclerosis qualifies her as a protected individual under the PWDCRA.

55. Plaintiff's disability was unrelated to her ability to perform the duties of her job.

56. Defendants violated the PWDCRA, as described above, by discriminating against Plaintiff when it refused to discuss accommodations with her and terminated her because of her disability.

57. Plaintiff's disability, history of disability, and Defendant regarding Plaintiff as having a disability was one of the motives that made a difference in Defendant's decision to terminate her employment.

58. Defendant's actions were intentional.

59. As a direct and proximate result of Defendant's unlawful actions against Plaintiff, Plaintiff has sustained injuries and damages, including, but not limited to, loss of earnings, loss of career opportunities, mental and emotional distress, and loss of the ordinary pleasures of everyday life.

Count IV – Retaliation in Violation of the PWDCRA

60. Plaintiff incorporates the preceding paragraphs by reference.

61. Defendants violated the PWDCRA, as described above, by discriminating against Plaintiff after she asserted her rights and referred to the EEOC.

62. Plaintiff's assertion of her right to reasonable accommodations and her mention of the EEOC was one of the motives that made a difference in Defendant's decision to terminate her employment.

63. Defendant's actions were intentional.

64. As a direct and proximate result of Defendant's unlawful actions against Plaintiff, Plaintiff has sustained injuries and damages, including, but not limited to, loss of earnings, loss of career opportunities, mental and emotional distress, and loss of the ordinary pleasures of everyday life.

Plaintiff respectfully requests that this Honorable Court enter a judgment awarding her:

A. Compensatory damages in whatever amount she is found to be entitled;

B. Exemplary damages in whatever amount she is found to be entitled;

C. Lost wages, past and future, in whatever amount she is found to be entitled;

D. The value of lost fringe benefits, past and future;

E. Interest, costs, and reasonable attorney fees, and

F. Whatever other relief this Honorable Court deems appropriate at the time of final judgment.

DEMAND FOR JURY TRIAL

NOW COMES Plaintiff, JENNIFER D. MASTERS, by and through her attorneys, BURGESS SHARP & GOLDEN, PLLC, and hereby makes a demand for a trial by jury in the above-entitled matter.

Dated: April 24, 2017

Respectfully submitted,

BURGESS SHARP & GOLDEN, PLLC
Attorneys for Plaintiff

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